

No. 2 of 2001.

National Capital District Commission (Amendment) Act 2001.

Certified on : 11.10.01

INDEPENDENT STATE OF PAPUA NEW GUINEA.

No. of 2001.

National Capital District Commission (Amendment) Act 2001.

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INDEPENDENT STATE OF PAPUA NEW GUINEA.

No. of 2001.

AN ACT

entitled

National Capital District Commission (Amendment) Act 2001,

Being an Act to amend the *National Capital District Commission Act 1990*,

MADE by the National Parliament to come into operation in accordance with a notice in the National Gazette by the Head of State, acting with, and in accordance with, the advice of the Minister.

1. INTERPRETATION (AMENDMENT OF SECTION 1).

Section 1 of the Principal Act is amended –

(a) by inserting after the definition of “Chairman” the following definition:-

“Chairman of the Council” means the person elected as Chairman of the Council under Section 40A(4);” and

(b) by repealing the definition of “Deputy Governor” and replacing it with the following:-

“Deputy Chairman, means the Deputy Chairman of the Commission appointed in accordance with Section 5;” and

(c) by repealing the definition of “Governor”; and

(d) by repealing the definitions of “Interim Commission” and “Interim Assembly”; and

(e) by repealing the definition of “open electorates”.

2. REPEAL AND REPLACEMENT OF SECTION 4.

Section 4 of the Principal Act is repealed and is replaced with the following:-

“4. MEMBERSHIP OF THE COMMISSION.

(1) The National Capital District Commission shall consist of six members being-

(a) five members appointed by the Head of State, acting on advice, by notice in the National Gazette; and

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(b) subject to Subsection (3), the Chairman of the Council, *ex-officio*.

- “(2) The members appointed under Subsection (1) shall-
- (a) shall be persons who comply with the eligibility requirements specified in Section 7; and
 - (b) shall be appointed for a term of four years; and
 - (c) are eligible for reappointment; and
 - (d) shall serve on a part time basis; and
 - (e) shall hold office on such terms and conditions as are determined by the National Parliament following consideration of a recommendation from the Salaries and Remuneration Commission.

“(3) Where the Chairman of the Council does not comply with the eligibility requirements specified in Section 7, he is not eligible to be a member and the Head of State, acting on advice, shall appoint to be a member of the Commission such other member of the Council who complies with the eligibility requirements specified in Section 7 as he considers appropriate.

“(4) Subject to Subsection (3), a person appointed under Subsection (1)(b)-

- (a) shall only hold office as a member of the Commission whilst he holds office of the Chairman of the Council; and
- (b) upon ceasing to hold the Office of Chairman of the Council, the person who is elected as Chairman of the Council under Section 40A shall be appointed as a member of the Commission.

“(5) A person appointed under Subsection (3) shall only hold office as a member of the Commission -

- (a) whilst he holds office as a member of the Council; or
- (b) until the election of a Chairman of the Council who complies with the eligibility requirements specified in Section 7.”.

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3. REPEAL AND REPLACEMENT OF SECTION 5.

Section 5 of the Principal Act is repealed and is replaced with the following:-

"5. CHAIRMAN AND DEPUTY CHAIRMAN.

(1) There shall be a Chairman and a Deputy Chairman of the Commission.

"(2) The Head of State, acting on advice, shall, by notice in the National Gazette, appoint one of the members of the Commission to be the Chairman of the Commission and another member to be the Deputy Chairman of the Commission.

"(3) Where, under Section 8, the Chairman or Deputy Chairman becomes ineligible to be a member of the Commission, he ceases to be Chairman or Deputy Chairman of the Commission, as the case may be.

"(4) Where the Chairman is-

- (a) on leave of absence; or
- (b) absent from the National Capital District; or
- (c) out of speedy or effective communication; or
- (d) otherwise unable to perform or is not readily available to perform the functions and responsibilities of Chairman,

the Deputy Chairman shall perform the functions and responsibilities of the Chairman of the Commission.

"(5) The office of the Lord Mayor is hereby abolished, but where protocol or ceremony dictates the need for the office of the Lord Mayor, the Chairman shall be deemed to hold that office for that purpose and, in the absence of the Chairman, the Deputy Chairman shall be deemed to hold such office.

"(6) The Chairman, and in his absence the Deputy Chairman, are responsible to the Minister for the performance by the Commission of its function."

4. REPEAL OF SECTION 5A.

Section 5A of the Principal Act is repealed.

5. REPEAL OF SECTION 5B.

Section 5B of the Principal Act is repealed.

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6. **REPEAL OF SECTION 5C.**
Section 5C of the Principal Act is repealed.
7. **REPEAL OF SECTION 5D.**
Section 5D of the Principal Act is repealed.
8. **REPEAL OF SECTION 5E.**
Section 5E of the Principal Act is repealed.
9. **REPEAL AND REPLACEMENT OF SECTION 7.**
Section 7 of the Principal Act is repealed and is replaced with the following:-

“7. ELIGIBILITY FOR OFFICE OF MEMBERS OF THE COMMISSION.

A person is eligible for appointment as a member of the Commission under Section 4(1) where he-

- (a) has resided in the National Capital District for a continuous period of at least four years immediately prior to appointment; and
- (b) is not a sitting member of-
 - (i) the National Parliament; or
 - (ii) a Provincial Assembly; or
 - (iii) a Local-level Government; and
- (c) has not been convicted of a criminal offence; and
- (d) is not declared medically unfit; and
- (e) has not at any time been an officeholder or a member of any registered political party.”.

10. **REPEAL AND REPLACEMENT OF SECTION 8.**
Section 8 of the Principal Act is repealed and is replaced with the following:-

“8. VACATION OF OFFICE.

- (1) Where a member of the Commission-
 - (a) becomes permanently incapable of performing his duties; or
 - (b) resigns his office by writing under his hand addressed to the Minister; or
 - (c) absents himself from three consecutive meetings of the Commission without the consent of the Minister; or

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- (d) fails to comply with the provisions of Section 13; or
- (e) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration for the benefit of his creditors; or
- (f) becomes of unsound mind as that expression is used in the *Public Health Act (Chapter 226)*; or
- (g) except in the case of the member appointed under Section 4(1)(b), ceases to be a permanent resident of the National Capital District; or
- (h) except in the case of the member appointed under Section 4(1)(b), is absent from the National Capital District for a continuous period of three months without the consent of the Minister; or
- (i) is convicted of a criminal offence; or
- (j) is found to have been, at the time of his appointment, ineligible for appointment; or
- (k) is elected as a member of -
 - (i) the National Parliament; or
 - (ii) a Provincial Assembly; or
 - (iii) a Local-level Government,

the Head of State, acting on advice, shall terminate his appointment.

“(2) The Head of State, acting on advice, may, at any time, by written notice, advise a member that he intends to terminate his appointment on the grounds of-

- (a) inefficiency; or
- (b) incapacity; or
- (c) misbehaviour; or
- (d) disobeying any lawful direction of the Minister.

“(3) Within 14 days of the receipt of a notice under Subsection (2), the member may reply in writing to the Minister, who shall consider the reply and, as soon as possible, submit his findings to the National Executive Council.

“(4) Where, following consideration of the findings of the Minister under Subsection (3), the National Executive Council is of the opinion that the appointment of the member should be terminated, it shall so advise the Head of State who shall terminate the appointment.

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“(5) Where the member referred to in Subsection (2) fails to reply in writing, the Head of State, acting on advice, shall by notice in writing terminate the appointment of that member.

“(6) Where the member-

(a) has his appointment terminated under this section;

or

(b) dies,

the vacancy shall be filled as soon as practicable and any such appointment shall terminate of the date of expiry of the term of the member whom such appointee replaces.”

11. REPEAL AND REPLACEMENT OF SECTION 10.

Section 10 of the Principal Act is repealed and is replaced with the following:-

“10. MEETINGS OF THE COMMISSION.

(1) The Commission shall hold meetings at such times and in such places in the National Capital District as the Chairman, or in his absence, the Deputy Chairman determines, but in any event not less frequently than once a month.

“(2) Where the Chairman receives a request in writing by not less than two members, the Chairman, or in his absence the Deputy Chairman, shall convene a meeting of the Commission within 14 days of such written request.

“(3) At a meeting of the Commission -

(a) four members shall constitute a quorum provided one such member is the Chairman or, in his absence, the Deputy Chairman; and

(b) the Chairman, or in his absence the Deputy Chairman, shall preside; and

(c) matters arising shall be determined by a majority of the votes of the members present and voting; and

(d) the Chairman, or in his absence the Deputy Chairman, shall have a deliberative vote and, in the event of an equality of votes on a matter, also a casting vote.

“(4) The Commission shall cause minutes of its meetings to be recorded and kept.

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“(5) Subject to this Act, the procedures of the Commission are as determined by the Commission.”

12. REPEAL AND REPLACEMENT OF SECTION 11.

Section 11 of the Principal Act is repealed and is replaced with the following:-

“11. CUSTODY AND AFFIXING OF SEAL.

(1) The seal of the Commission -

- (a) shall be kept in the custody of the Chairman, or in his absence the Deputy Chairman, or in the custody of such other officer of the Commission as the Commission may approve; and
- (b) shall only be affixed to instruments pursuant to a resolution of the Commission.

(2) It shall be the responsibility of the Chairman, or in his absence the Deputy Chairman, to verify, prior to affixing the seal, that an appropriate resolution has been made by the Commission to affix the seal.”

13. REPEAL AND REPLACEMENT OF SECTION 12.

Section 12 of the Principal Act is repealed and is replaced with the following:-

“12. AUTHENTICATION OF DOCUMENTS, ETC.

The seal of the Commission shall only be authenticated on any document by the signature of the Chairman, or in his absence the Deputy Chairman, and by one other member and all courts. Judges and persons acting judicially shall take notice of the seal affixed to a document and shall presume that it was duly affixed.”

14. MANAGER (AMENDMENT OF SECTION 19).

Section 19(2) of the Principal Act is repealed and is replaced with the following:-

“(2) The dismissal of the Manager from office by the Commission before the termination of the period for which he was appointed may only be effected with the consent of the Minister.”

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15. FINANCES OF INTERIM COMMISSION AND INTERIM ASSEMBLY (AMENDMENT OF SECTION 21).

Section 21 of the Principal Act is amended by repealing the heading and replacing it with the following:-

“FINANCE OF THE COMMISSION AND ASSEMBLY.”

16. GRANTS FROM NATIONAL GOVERNMENT (AMENDMENT OF SECTION 22).

Section 22(1)(a) of the Principal Act is repealed.

17. MOTU KOITABU COUNCIL (AMENDMENT OF SECTION 40A).

Section 40A of the Principal Act is amended –

(a) by repealing Subsection (4) and replacing it with the following:-

“ (4) The members of the Council shall appoint one of their number to be the Chairman and another to be the Deputy Chairman of the Council.”; and

(b) by repealing Subsection (10) and replacing it with the following:-

“ (10) Notwithstanding Subsection (3), the term of members of the Council expires on the day fixed for the return of the Writs for the General Election to be held next following the date of their election.”

18. COMPOSITION OF LOCAL-LEVEL GOVERNMENTS (AMENDMENT OF SECTION 40D).

Section 40D(2) of the Principal Act is repealed and is replaced with the following:-

“ (2) A member of a Local-level Government shall hold office for a period commencing on and from the date of his election up to and including the date fixed for the return of the Writs for the next General Election held after his election.”

19. **REGULATIONS (AMENDMENT OF SECTION 45).**

Section 45(b) of the Principal Act is amended by repealing the amount "K500.00" and replacing it with the following:-

"K10,000.00".

I hereby certify that the above is a fair print of the *National Capital District Commission (Amendment) Act 2001* which has been made by the National Parliament.

Clerk of the National Parliament.

I hereby certify that the *National Capital District Commission (Amendment) Act 2001* was made by the National Parliament on 9 October 2001.

Speaker of the National Parliament.

